THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 17598 of 2005

Dated: 24.08.2005

Between:

The Abbirajupalem Gram Panchayat, Abbirajupalem, Elamanchili Mandal, W.G.District, rep. by its Sarpanch Smt. V. Dhana Lakshmi,

..... PETITIONER

AND

1 The District Collector, W.G.District at Eluru and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 17598 of 2005

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ORDER:

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Seeking a direction to declare the proceedings of the 3rd respondent and the consequential proceedings dated 09.06.2005 passed by the 4th respondent as illegal and arbitrary, the present writ petition has been preferred by the petitioner.

The dispute in question is with regard to the leasehold rights as to the operation of boats in Vasista river. It is apparent on face of the record that during the year 1997, the District Collector, West Godavari has granted permission to the Gram Panchayat Abhirajupalem to operate the boats in Surayya Revu by auctioning the leasehold rights and subsequently, during the year 2004, the District Panchayat Officer, Amalapuram issued the impugned proceedings permitting the 4th respondent Gram Panchayat to operate the boats at ferry. Therefore, the present writ petition has been preferred by the Sarpanch of the petitioner-Gram Panchayat.

Heard the learned counsel appearing on behalf of the parties.

Relying on the Rules as to the Andhra Pradesh Panchayat Raj (Functions of Panchayat Secretary) Rules, 2002 in G.O.Ms.No:4, Panchayat Raj and Rural Development (Mdl.II), dated 7.1.2002, it is mainly contended by the learned Government Pleader for Panchayat Raj that the Sarpanch has no competence to file any legal proceedings, but it is only the Executive Authority which can implement the resolutions if any.

A perusal of the aforesaid rules goes to show that they are purely confined as to the functions of the Panchayat Secretary. Among all the other functions, Rule 1 (5) of the Rules makes it clear that it is the duty of the Secretary to implement the resolutions of the Gram Panchayat and of the Committees thereof. As could be seen from the affidavit filed in support of the writ petition, it

does not disclose as to whether there is any such resolution of the Gram Panchayat or the Committees.

It is perceptible from the record that the petitioner had not mentioned in the affidavit that the Gram Panchayat by way of resolution authorized the Sarpanch to file the writ petition on behalf of the Gram Panchayat. Apart from that, the Act itself also does not contemplate as to the powers of a Sarpanch to file any legal proceedings.

In this background of the matter, without expressing any opinion on the merits of the case, I am of the opinion that the writ petition is not maintainable.

Accordingly, the writ petition is dismissed. No costs.

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24.08.2005

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